

E-Filing

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12 The Boeing Company

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF CALIFORNIA

13 SCOTT OGAN and JANET OGAN,

14 Plaintiffs,

15 v.

16 NORTHWEST AIRLINES, INC., a
17 Corporation, and THE BOEING COMPANY,

18 Defendants.

CASE NO. C 04 5462-VRW

**STIPULATION AND ~~[PROPOSED]~~
ORDER FOR CONDITIONAL
DISMISSAL OF DEFENDANT
THE BOEING COMPANY WITHOUT
PREJUDICE**

19 This stipulation is entered into by and between plaintiffs Scott Ogan and Janet Ogan
20 ("plaintiffs"), by and through their counsel of record O'Reilly, Collins & Danko; defendant
21 Northwest Airlines, Inc. ("Northwest"), by and through its counsel of record Pietragallo, Bosick &
22 Gordon; and defendant The Boeing Company ("Boeing"), by and through its counsel of record
23 Perkins Coie LLP, with respect to the following:

24 A. Boeing believes that it did not design, manufacture, maintain, repair, refurbish or
25 sell the passenger seats or decide the configuration of the passenger seats on board the aircraft on
26 which Mr. Ogan allegedly traveled;

27 B. Plaintiffs recognize the possibility that Boeing may have been involved with the
28 installation of some of the aircraft passenger seats at issue in this case; and

1 C. Plaintiffs wish to dismiss Boeing from this litigation and reserve the right to
 2 reassert their claims against Boeing in the event that discovery reveals within the next 18 months
 3 that Boeing designed, manufactured, maintained, repaired, refurbished or sold the passenger seats
 4 or decided the configuration of the passenger seats on board the aircraft on which Mr. Ogan
 5 allegedly traveled on or about March 6, 2001 from Washington, D.C. to Anchorage, Alaska via
 6 Minneapolis, Minnesota and Seattle, Washington.

7
 8 IT IS HEREBY STIPULATED that plaintiffs' claims against Boeing are dismissed
 9 without prejudice and without costs or attorney fees to any party hereto, subject to the following
 10 conditions:

11 (1) Plaintiffs may reassert the same allegations and claims against Boeing as contained
 12 in the Complaint filed June 7, 2004 if and only if discovery reveals prior to December 15, 2006
 13 that Boeing designed, manufactured, maintained, repaired, refurbished or sold the passenger seats
 14 or decided the configuration of the passenger seats on board the aircraft on which Mr. Ogan
 15 allegedly traveled on or about March 6, 2001 from Washington, D.C. to Anchorage, Alaska via
 16 Minneapolis, Minnesota and Seattle, Washington.

17 (2) Boeing agrees to toll any limitations period that could be asserted by Boeing with
 18 respect to the claims against Boeing in the Complaint, from the date that this stipulated order of
 19 dismissal becomes final until December 15, 2006. This extension shall not operate to revive any
 20 claim as to which the applicable limitations period has run as of the date that this stipulated order
 21 of dismissal becomes final.

22 **STIPULATED AND AGREED TO:**

23 DATED: June 15, 2005

O'REILLY, COLLINS & DANKO

24 By: 

25 Stephen J. Purtill, Esq.

26 Attorneys for Plaintiffs

27 SCOTT OGAN and JANET OGAN

1 DATED: June __, 2005

PIETRAGALLO, BOSICK & GORDON

2
3 By: 

4 Clem C. Trischler, Esq.
Attorneys for Defendant
NORTHWEST AIRLINES, INC.

5 DATED: June 16, 2005

PERKINS COIE LLP

6
7 By: 

8 Chung H. Han, Esq.
Attorneys for Defendant
THE BOEING COMPANY

10 ORDER

11 IT IS SO ORDERED that plaintiffs' claims against The Boeing Company are dismissed
12 without prejudice and without costs or attorney fees to any party hereto, subject to the conditions
13 (1) and (2) set forth above.

14
15 Dated: 9/12, 2005

16 
17 The Honorable Vaughn R. Walker
18 Chief Judge of the United States District Court,
Northern District of California

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28 [LAWSTERO.D21]

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